

House File 2240 - Introduced

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A BILL FOR

1 An Act relating to the construction and maintenance of walkways
2 in rail yards, and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 327F.37 Rail yard walkways —
2 penalty.

3 1. *Scope.* This section applies to all railroad tracks and
4 walkways in rail yards in this state. This section does not
5 apply to tracks or walkways constructed in an industry yard
6 owned by an entity other than a railroad corporation.

7 2. *Definitions.* As used in this section, unless the context
8 otherwise requires:

9 a. *"Department"* means the department of transportation.

10 b. *"Frequently"* means at least one shift per day for
11 five days per week, or any other period the department deems
12 frequent enough to warrant an order pursuant to subsection 5.

13 c. *"Good cause"* includes but is not limited to a showing
14 that compliance with this section will impose an undue hardship
15 on the railroad corporation.

16 3. *Standard.* A railroad corporation shall provide walkways
17 adjacent to those portions of rail yard tracks where railroad
18 employees frequently perform switching activities.

19 4. *General requirements and recommendations.*

20 a. (1) Walkways may be surfaced with asphalt, concrete,
21 planking, grating, native material, crushed material, or
22 other similar material. Where crushed material is used, one
23 hundred percent of the material shall be capable of passing
24 through a one and one-half inch square sieve opening, and not
25 less than ninety percent of the material shall be capable of
26 passing through a one-inch square sieve opening. A de minimus
27 variation from these requirements shall not be a violation
28 of this section in instances where the railroad corporation
29 has made a good-faith effort to comply with the percentage
30 requirements of this subparagraph.

31 (2) Crushed material smaller than that described in
32 subparagraph (1) shall be used whenever practicable, especially
33 in places where drainage and durability issues do not exist.
34 Material capable of passing through a three-fourths inch square
35 sieve opening or smaller is recommended for switching lead

1 tracks.

2 *b.* Walkways shall have a reasonably uniform surface and
3 be maintained in a safe condition without compromising track
4 drainage.

5 *c.* Cross slopes for walkways shall not exceed one inch of
6 elevation for each eight inches of horizontal length in any
7 direction.

8 *d.* Walkways shall be at least two feet wide.

9 *e.* Walkways shall be kept reasonably free of spilled fuel
10 oil, sand, posts, vegetation, nonballast rocks, and other
11 hazards or obstructions.

12 5. *Other tracks.* If the department finds, after notice
13 and hearing, that railroad employees who frequently perform
14 switching activities adjacent to a portion of track are exposed
15 to safety hazards due to the lack of a walkway or due to the
16 condition of a walkway constructed before July 1, 2015, the
17 department may do one of the following:

18 *a.* Order a railroad corporation to construct a walkway
19 adjacent to a portion of track where railroad employees
20 frequently perform switching activities.

21 *b.* Require a railroad corporation to modify an existing
22 walkway to conform with subsections 3 and 4 within a reasonable
23 period of time.

24 6. *Compliance.* A railroad corporation is excused from
25 complying with this section under the following circumstances:

26 *a.* During maintenance activities.

27 *b.* In the event of a derailment.

28 *c.* During periods of heavy rain, snow, or similar weather
29 conditions, and for a reasonable time after such conditions
30 subside to allow a return to compliance.

31 *d.* In the event of a rock slide, earth slide, washout, or
32 similar seismic conditions, and for a reasonable time after
33 such conditions subside to allow a return to compliance.

34 7. *Waiver.* A railroad corporation may petition the
35 department for a waiver of any provision of this section. The

1 department may grant a waiver of any provision of this section
2 where the railroad corporation shows good cause.

3 8. *Enforcement.*

4 a. A person alleging a violation of this section shall
5 attempt to address the allegation with the railroad corporation
6 by making a written complaint to the railroad corporation. No
7 later than thirty days after receiving the written complaint,
8 the railroad corporation shall respond in writing to the person
9 alleging the violation, describing what action, if any, the
10 railroad corporation intends to take to correct the alleged
11 violation. If the railroad corporation does not respond in
12 writing to the person alleging the violation within thirty days
13 of receiving the complaint, or does not correct the alleged
14 violation within ninety days of receiving the complaint, the
15 person may file a formal complaint with the department.

16 b. A formal complaint to the department shall contain a
17 copy of the written complaint made to the railroad corporation
18 under paragraph "a", and a copy of the railroad corporation's
19 written response, if any. No later than ten days after
20 receiving the formal complaint, the department shall send
21 written notification to the railroad corporation informing it
22 of the complaint and its duties under this paragraph. No later
23 than thirty days after receiving written notification, the
24 railroad corporation shall either correct the alleged violation
25 or contest the complaint. If the railroad corporation contests
26 the complaint, the department shall inspect the area of the
27 alleged violation. Upon inspection, if the department finds
28 that a violation exists, the department shall issue an order
29 requiring the railroad corporation to correct the violation
30 within thirty days of receipt of the order. Upon inspection,
31 if the department finds that a violation does not exist,
32 the department shall deny the complaint and send written
33 notification to the parties informing them of the denial.

34 c. A party to the complaint may appeal the department's
35 decision by filing an appeal with the department of inspections

1 and appeals within ten days of being notified of the
2 department's decision. The department of inspections and
3 appeals shall render a decision on the appeal and notify the
4 parties of the decision in writing no more than fifteen days
5 after the appeal was filed. Judicial review of the decision
6 of the department of inspections and appeals may be sought in
7 accordance with chapter 17A.

8 9. *Penalty.* A railroad corporation who violates this
9 section commits a "schedule one" violation punishable
10 under section 327C.5. Each day a violation exists shall be
11 considered a separate violation.

EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill establishes standards and requirements for the
16 construction and maintenance of walkways in rail yards. The
17 provisions of the bill apply to all tracks and walkways in rail
18 yards in this state, but do not apply to tracks or walkways
19 in an industry yard owned by an entity other than a railroad
20 corporation.

21 The bill establishes a standard requirement for railroad
22 corporations to provide walkways adjacent to portions of
23 rail yard tracks where railroad employees perform switching
24 activities at least one shift per day for five days per week.

25 The bill provides recommendations and requirements for the
26 type of material used for the walkways. In addition, the
27 bill requires that walkways be at least two feet wide, with
28 cross slopes of not more than one inch of elevation for each
29 eight inches of length in any direction. Walkways must have
30 a reasonably uniform surface, be maintained in safe condition
31 without compromising track drainage, and be kept reasonably
32 free of spilled fuel oil, sand, posts, vegetation, nonballast
33 rocks, and other hazards and obstructions.

34 Following an administrative hearing, the department of
35 transportation may order a railroad corporation to construct a

1 walkway or alter a preexisting walkway to conform with the new
2 requirements where the lack of a walkway or the condition of a
3 walkway poses a safety hazard to railroad employees.

4 The bill excuses a railroad corporation from compliance with
5 walkway requirements during maintenance activities, in the
6 event of a derailment, during certain weather conditions, in
7 certain seismic conditions, and for a reasonable time after
8 such weather or seismic conditions subside to allow a return
9 to compliance.

10 The department of transportation may grant a waiver of any
11 provision of the bill to a railroad corporation upon a showing
12 of good cause, including but not limited to a showing that
13 compliance with the bill will impose an undue hardship on the
14 railroad corporation.

15 A person who alleges a violation of the requirements of the
16 bill must address the allegation with the railroad corporation
17 by making a written complaint. If the railroad corporation
18 does not respond to the complaint within 30 days, or does not
19 resolve the alleged violation within 90 days, the person may
20 file a formal complaint with the department of transportation.
21 The department shall notify the railroad corporation of the
22 complaint, and the railroad corporation has 30 days in which
23 to respond, either by correcting the alleged violation or by
24 contesting the complaint. If the railroad corporation contests
25 the complaint, the department is required to inspect the area
26 of the alleged violation. Upon a finding that a violation
27 exists, the department must order the railroad corporation to
28 correct the violation within 30 days of receipt of the order.
29 If, following the inspection, the department finds that no
30 violation exists, it must notify the parties to the complaint
31 that the complaint is denied.

32 A party to the complaint may appeal the department's
33 decision by filing an appeal with the department of inspections
34 and appeals and judicial review of the decision of the
35 department of inspections and appeals may be sought according

1 to the Iowa administrative procedure Act.

2 A violation of the bill's provisions is a "schedule one"
3 violation, punishable by a \$100 fine for each day a violation
4 exists.